

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

EARL INGELS

Plaintiff(s)

vs.

HARRY K. RUSSELL, WARDEN

Defendant(s)

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Case Number: 1:00-cv-01003

Senior District Judge S. Arthur Spiegel

JUDGMENT IN A CIVIL CASE

Decision by Court: This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

. . .the Court hereby ADOPTS the Magistrate Judge's report (doc. 19), AFFIRMS the Magistrate Judge's recommended decision (Id.), and DENIES Petitioner's amended habeas corpus petition with prejudice (doc. 16). The Court further FINDS that a certificate of appealability should not issue with respect to the dismissal on procedural default grounds of Petitioner's claims because "jurists of reason would not find it debatable whether this Court is correct in its procedural ruling" as required under the first prong of the two part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), which is applicable to procedurally-barred claims. Petitioner has not shown that reasonable jurists could debate whether these claims should have been resolved in a different manner or that the issues presented were "adequate to deserve encouragement to proceed further." With respect to any application by Petitioner for in forma pauperis status for the purposes of pursuing an appeal of this Order, the Court certifies that pursuant to 28 U.S.C. § 1915(a), an appeal of this Order would not be taken in "good faith," and therefore, DENIES Petitioner leave to proceed on appeal in forma pauperis. Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

6/24/04

James Bonini, Clerk

s/Kevin Moser

Kevin Moser
Deputy Clerk